

MINUTES
REGULAR MEETING OF THE NEWTON CITY COUNCIL
February 3, 2015 – 7 p.m.

The regular meeting of the Newton City Council was held at 7 p.m. Tuesday, February 3, 2015, at Newton City Hall.

PRESENT: Mayor Anne P. Stedman, Mayor Pro Tem Mary Bess Lawing, Tom Rowe, Wayne Dellinger, Robert C. Abernethy Jr., John Stiver, and Wes Weaver

STAFF: City Manager Todd Clark, Assistant City Manager Sean Hovis, City Attorney John Cilley, City Department Heads and members of the management team

ITEM 1: **CALL TO ORDER**

Mayor Anne P. Stedman welcomed everyone and called the meeting to order.

ITEM 2: **OPENING Invocation and Pledge of Allegiance**

Council Member John Stiver led the Invocation and the Pledge of Allegiance.

ITEM 3: **APPROVAL OF MINUTES**

Upon motion duly made by Mayor Pro Tem Mary Bess Lawing, seconded by Council Member Robert C. Abernethy Jr., it was unanimously RESOLVED:

That the Regular Minutes of the January 20, 2014, City Council meeting be –
APPROVED

ITEM 4: **CONSIDERATION OF CONSENT AGENDA ITEMS**

Upon motion duly made by Mayor Pro Tem Mary Bess Lawing, seconded by Council Member Tom Rowe, it was unanimously RESOLVED:

That the Consent Agenda be – APPROVED

- A. Sewer Adjustments
- B. Resolution Supporting North Carolina’s Historic Preservation Tax Credit Programs
- C. Consideration to Accept Annual Water and Wastewater Systems Reports

(Ordinances, Resolutions and Proclamations are hereby referenced and on file in the Office of the City Clerk)

ITEM 5: **COMMENTS FROM THE PUBLIC: PEOPLE WHO WISH TO COMMENT ON NON-AGENDA ITEMS ARE ASKED TO SIGN IN WITH THE CITY CLERK PRIOR TO THE MEETING.**

Mayor Anne P. Stedman asked if anyone present would like to make comment concerning non-agenda items. No one came forward.

ITEM 6: **Public Hearing**

- A. Consideration of Planned Development Modification 2015-01 – Property located at 1818 Northwest Blvd.

Assistant City Manager Sean Hovis said Marianne Moseley, on behalf of Newton Center LLC., requested an amendment to a Planned Development for 8.15 acres of land at 1818 Northwest Blvd. The original project was constructed in 1972 and consisted of 65,000 square feet of retail space, a small retail restaurant, and a three-pump fuel station. The fueling station was removed as a result of the widening of West 20th Street in late 1970s. In 1991, the Zoning Ordinance was rewritten. The subject site along with other shopping centers was rezoned to Planned Development Shopping Center Districts. The rezoning plan was adopted in 1992. At that time, the site was zoned Planned Development Shopping Center Community based on the size of the parcel and square footage of the buildings. The buildings within the Planned Development Shopping Center are 50,000-100,000 square feet. There have been no changes to the zoning of this site or the surrounding area since 1992. On October 7, 2014, City Council approved a plan to redevelop the site. That plan consisted of demolition of the existing structures and construction of a new building containing about 41,000 square feet of retail space, a six-pump fuel station, and creation of a 0.58-acre outparcel for future commercial use.

Assistant City Manager Sean Hovis said the proposed changes amend what was approved on October 7, 2014. The amendment maintains the previously approved demolition of the former Harris Teeter grocery store on the site and construction of a 41,117-square-foot grocery store with a pharmacy and a six-pump fuel station. The amendment is to keep the current China Express building and remove the 0.58-acre outparcel. The proposed request is consistent with the 1988 Land Development Plan, which recommends commercial use for the subject site. Based on information submitted by the applicant, the Schematic Site Plan, and review and analysis detailed here, the Planning Commission at their January 27, 2015, meeting voted unanimously to recommend City Council approve the request with conditions that screening is provided at the rear of the property, and that sidewalks be extended across the frontage of the property along Northwest Boulevard and that pedestrian access be provided from Northwest Boulevard to the front of the grocery store.

Mayor Anne P. Stedman asked if anyone present would like to comment.

Ms. Shirley Kam said her family opened China Express in 1988 and carried it on to the next generation. She recognized the original owner, who was seated in the audience, and said the original owner is retired and is concerned about the situation. Ms. Shirley Kam said she understood the former Harris Teeter building would be reconstructed and turned into a Walmart Neighborhood Market grocery store. She said she hoped China Express could maintain its current location and continue serving its customers in town. She said China Express would make improvements to its building if the restaurant could remain in its current location.

Mayor Anne P. Stedman thanked Ms. Shirley Kam and said the City looked forward to a long relationship with China Express.

Mayor Anne P. Stedman asked if anyone would like to comment. No one came forward.

Upon motion duly made by Council Member John Stiver, seconded by Mayor Pro Tem Mary Bess Lawing, it was unanimously RESOLVED:

That that the Public Hearing be – CLOSED

Council Member Robert C. Abernethy Jr. asked whether the sidewalk in front of the proposed project would be connected to any other sidewalks or just sit in front of the new building. He said there is a sidewalk in front of the Food Lion in Startown that leads nowhere.

Marianne Moseley asked whether Council Member Robert Abernethy Jr. was referring to how people would get from the road to the front door.

Council Member Robert C. Abernethy Jr. said most people would drive their car. He said people walking up Northwest Boulevard would have no sidewalk as they come by Catawba Valley Supply and it seemed like City Council was asking for an expense that would create an island of a sidewalk.

Council Member John Stiver said there is a sidewalk on 22nd Street beside the Exxon.

Council Member Robert C. Abernethy Jr. said maybe City Council should consider asking developers to put sidewalks downtown as part of the Downtown Newton Streetscape Plan in lieu of putting floating sidewalks that serve little purpose in front of their buildings. He said the City could then host a ribbon cutting ceremony and issue a press release to give developers credit for improving Downtown Newton's sidewalks.

Mayor Anne P. Stedman said she was concerned with Council Member Robert C. Abernethy Jr.'s proposal because of the time, money and effort spent producing the proposed Planned Development.

Ms. Marianne Moseley said the property frontage continues beyond the China Express building, and that sidewalks could be added to the plan to cover the entire property frontage. She said extension of sidewalks beyond the property frontage would be unlikely.

Council Member Robert C. Abernethy Jr. said he would agree to a plan that included sidewalks along the property frontage.

Council Member John Stiver asked what improvements would be made to China Express.

Ms. Marianne Moseley said the plan did not include improvements to China Express. She read a statement from the property's landlord that said Newton Center LLC was willing to renovate the building that currently houses the Chinese restaurant within 12 months of the completion of the Walmart building. Ms. Marianne Moseley said there were no specific planned renovations, but that the landlord was willing to renovate the building.

Council Member Wes Weaver asked what ideas were presented to City Council before the proposed amendment to keep the China Express building was presented.

Ms. Marianne Moseley said the plan submitted and approved in the fall of 2014 included demolition of the China Express building and inclusion of an outparcel in the vicinity of the fuel station proposed in the amended plan. She said future development of the outparcel was to be overseen by the landlord.

Council Member John Stiver asked what plans Ms. Shirley Kam discussed with the developer to renovate the China Express building.

Ms. Shirley Kam said the exterior could be painted to match the Walmart building and that the inside could be remodeled.

Mayor Anne P. Stedman asked whether the renovations to the China Express building by the landowner would have to be submitted to the Planning Department for approval.

Assistant Planning Director Alex Fulbright said the need to submit plans to the Planning Department would depend on the type of renovations to the building. Renovations that maintained the same footprint as the current structure likely would not need to be submitted to the Planning Department.

Mayor Pro Tem Mary Bess Lawing asked whether the China Express building could be enlarged.

Assistant Planning Director Alex Fulbright said the building could be enlarged, but such a change to the structure would require approval from the Planning Department.

Council Member Tom Rowe moved for approval of the Planned Development Modification with conditions that screening be provided at the rear of the property, and that sidewalks be extended across the frontage of the property along Northwest Boulevard and that pedestrian access be provided from Northwest Boulevard to the front of the grocery store.

Council Member John Stiver seconded the motion.

Council Member Robert C. Abernethy Jr. asked whether the motion would require changes to the amended proposal.

Ms. Moseley said the motion would require no changes to the amended proposal.

Council Member Wes Weaver said he was concerned about the vein in which the China Express building would be renovated but that in the vein of progress, he would support the amendment.

Upon motion duly made by Council Member Tom Rowe, seconded by Council Member John Stiver, it was unanimously RESOLVED:

That Planned Development Modification 2015-01 01—Property located at 1818 Northwest Boulevard—with conditions that screening be provided at the rear of the property, and that sidewalks be extended across the frontage of the property along Northwest Boulevard and that pedestrian access be provided from Northwest Boulevard to the front of the grocery store be – APPROVED

ITEM 7: New Business

A. Consideration of Bid Award and Related Contract for Audit Services

Finance Director Serina Hinson said the City on December 10, 2014, solicited bids for audit services. Requests for Proposal were sent to six qualified firms which specialize in governmental audits. The City received a bid from one of those firms, Martin, Starnes & Associates. The firm is the city's current auditor. The bid was for \$24,500, plus \$1,500 for a single audit, if required. The Finance Department does

not anticipate a single audit will be required. The bid is a decrease of \$750 for audit services for Fiscal Year 2015. The City contacted the other five audit firms to determine why those firms failed to submit bids, and representatives from each firm said the firms were unable to compete with the bid made by Martin, Starnes & Associates. Martin, Starnes & Associates has a large footprint in North Carolina for governmental audits. The firm audits more than 152 governmental units each year in North Carolina.

Finance Director Serina Hinson recommended City Council award Martin, Starnes & Associates the bid to provide audit services for Fiscal Year 2015.

Council Member Robert C. Abernethy Jr. said he would normally be concerned about receiving only one bid, but he did some research and said the bid was a very good deal.

Upon motion duly made by Council Member Robert C. Abernethy Jr., seconded by Council Member Tom Rowe, it was unanimously RESOLVED:

That the Bid Award and Related Contract for Audit Services be – APPROVED

- B. Consideration of a resolution exempting the City of Newton from North Carolina General Statute 14-234 (Public officers of employees benefiting from public contracts; exceptions)

Mayor Anne P. Stedman said the City would hold a workshop at the Newton Expo, which is owned by Council Member Wayne Dellinger.

Upon motion duly made by Council Member Robert C. Abernethy Jr., seconded by Council Member Wes Weaver, it was unanimously RESOLVED:

That Council Member Wayne Dellinger be – RECUSED – from consideration of a resolution exempting the City of Newton from North Carolina General Statute 14-234 (Public officers of employees benefiting from public contracts; exceptions)

Upon motion duly made by Council Member Wes Weaver, seconded by Council Member John Stiver, it was unanimously RESOLVED:

That the resolution exempting the City of Newton from North Carolina General Statute 14-234 (Public officers of employees benefiting from public contracts; exceptions) be – APPROVED

- C. Consideration of Budget Amendment for Subsoil Geotechnical Investigations at City Lake Dam

Public Works and Utilities Director Dusty Wentz said the N.C. Department of Environment and Natural Resources Dam Safety in May 2014 notified the City of needed repairs to the City Lake Dam to remain in compliance with state regulations. City staff completed most of those repairs and continues to address remaining issues. Additionally, updates to the Emergency Action Plan and other reports are required by Dam Safety. The City contracted with Wooten Engineering to facilitate discovery and provide reports and information to Dam Safety on the compliance concerns. As is typical with Dam Safety, representatives came back to the City with more questions. Most recently, Dam Safety representatives requested information which will require geotechnical services, administrative oversight, and a Simplified Inundation Map. The geotechnical services include:

- » Installation of five test boring sites and two observation wells.
- » Laboratory testing of soil from boring sites.
- » Development of a cross-sectional subsurface report to identify voids in the toe of the dam.
- » Use of ground-penetrating radar and frequency-domain electromagnetics to identify voids and locate the reservoir drainage pipe at the toe of the dam.
- » Use of ground-penetrating radar to identify voids under the concrete spillway.
- » Report findings and recommendations in a sealed engineering report.

Public Works and Utilities Director Dusty Wentz said the Simplified Inundation Map is required by the Coal Ash Management Act of 2014. The map must comply with the N.C. Emergency Action Plan methodology with the use of Geographic Information Systems (GIS) technology. The goal is to identify how much flooding would occur downstream for different levels of breaches of the dam. The mapping must go far enough beyond the dam so that no structures adjacent to the drainage channel would be affected, so it's a significant study covering a large area.

Public Works and Utilities Director Dusty Wentz said his recommendation is to approve the Budget Ordinance Amendment to appropriate necessary funding for geotechnical services, administrative oversight, and preparation of a Simplified Inundation Map in order to maintain compliance at the City Lake Dam as required by Dam Safety.

Public Works and Utilities Director Dusty Wentz displayed photographs showing part of the continuing repairs of the drainage spillway. Dam Safety representatives disapprove of the rock placed there after flooding in the summer of 2012. The City is working with several different companies for construction estimates to meet Dam Safety requests. The amendment addresses investigation of cracking of the spillway walls and slab that indicate voiding. A void in the dam was filled twice. The dam is a soil-backfilled dam with a small clay core. It was completed in 1938. Records from Dam Safety indicate various City agents informed Dam Safety representatives that the dam would be replaced and the reservoir would be relocated. Dam Safety allowed concerns about the dam to remain unaddressed because City agents planned to relocate the reservoir. After the 2014 coal ash spill on the Dan River, all earthen dams were classified as high-risk dams. Dam Safety is no longer allowing concerns to go unaddressed.

Public Works and Utilities Director Dusty Wentz said the area behind the fence at the toe of the dam is the drainage channel. It is holding water, and City staff has not yet determined the source of the water. A drainage pipe at the toe of the dam runs through the dam to the bottom of the reservoir. The location of the pipe is undetermined. The valve that holds the pipe closed may be leaking.

Council Member Robert C. Abernethy asked whether water is always in the drainage channel.

Public Works and Utilities Director Dusty Wentz said an area near the toe of the dam cannot be mowed. That area brought the dam to the attention of Dam Safety representatives. The City proposed using a French drain system to drain the water from the toe of the dam, but representatives from Dam Safety looked at the dam and asked the City to investigate other options. Dam safety representatives said they were impressed with the City's responsiveness to their requests.

Council Member Tom Rowe asked whether the drainage ditch runs parallel to the toe of the dam.

Public Works and Utilities Director Dusty Wentz said the ditch runs down the hill toward the houses on Boston Road and runs out to N.C. 10.

Council Member Tom Rowe asked how many gallons of water are held in the reservoir.

Public Works and Utilities Director Dusty Wentz said the reservoir holds 42-48 million gallons of water, which is a 7-day water supply. The capacity for pumping allows the reservoir to be drained in about three days. The investigation will show what material was used in the backfill above the clay core of the dam.

Council Member Wayne Dellinger asked when the dam was raised and the reservoir dredged and whether water could be seeping through the original top of the dam and the layer added on top of the original top of the dam.

Public Works and Utilities Director Dusty Wentz said the dam was raised and the reservoir dredged about 14 years ago. It is possible water could be seeping through the two layers. Engineering will indicate whether that is the case. The soil boring will demonstrate what material makes up the dam down to the clay core and how fast water is moving through the soil. The subsurface investigation with radar will give an indication of the hardness of the dam and the electromagnetic investigation will give an indication of the materials that make up the dam.

Council Member Wayne Dellinger said he thought the dam was raised three or four feet and that if that was creating a problem, why wouldn't the City remove that part of the dam.

Public Works and Utilities Director Dusty Wentz said such action would reduce the capacity of the reservoir and create problems with drinking water certifications.

Council Member Wayne Dellinger said he knew that.

Mayor Anne P. Stedman asked whether the City investigated raising the top of the dam to increase the reservoir's capacity.

Council Member Wayne Dellinger said the dam was raised about 14 years ago to increase the reservoir's capacity, but the people hired to dredge the dam did not dig out what they were paid to dig out and their feet should have been held to the fire.

Public Works and Utilities Director Dusty Wentz said the last time Dam Safety representatives looked closely at the dam was in the 1970s. At that time they recommended—but did not require—soil boring at the dam. The council at that time told Dam Safety representatives the reservoir would be moved to the Jacob's Fork area. He said he is unaware of any dam built in the 1930s that is still in use by a municipality for drinking water.

Council Member Wes Weaver asked when concerns first arose about the dam and whether the flooding of 2012 crested the dam.

Public Works and Utilities Director Dusty Wentz said the first concerns arose in May 2014. The flooding of 2012 did not crest the dam, but water flowed into the spillway, which is the spillway's intended purpose.

Council Member John Stiver asked what the City's options will be when the results of the investigation are available.

Public Works and Utilities Director Dusty Wentz said that if the voids are minimal, targeted boring and injections will suffice. If the issue at the toe is found to be resolved by opening up the drain that would

probably be an easy fix. If suspect backfill or significant voids are found, a significant construction project would likely be needed.

Council Member Tom Rowe asked how close the houses on Boston Road are to the dam's drainage area.

Public Works and Utilities Director Dusty Wentz said the dam's drainage area parallels the curves of Boston Road and flows beneath N.C. 10.

Council Member Wayne Dellinger asked whether there were any houses below the dam.

Public Works and Utilities Director Dusty Wentz said all the homes on Boston Road were below the dam.

Council Member Wayne Dellinger asked whether the engineers would drill between the spillway and the boundary of the City's property along Boston Road.

Public Works and Utilities Director Dusty Wentz said the drilling would be done from the spillway to the fence that encloses the City's property at the end of Boston Road. The holes will then be injected with concrete. Drilling will be done on City property.

City Manager Todd Clark said that the investigation is a measure the City must take.

Council Member Tom Rowe said there's no question the investigations must be done. Then, the council would have to fix the problem.

Public Works and Utilities Director Dusty Wentz said Dam Safety did not specifically require drilling holes, but required the City to determine what makes up the dam's backfill. The inundation mapping will involve an investigation of the spillway on City property and beyond City property to determine what would be flooded if the dam failed. The investigation will be done using in-person investigations on City property and flood maps and Geographic Information Systems (GIS) maps beyond City property.

City Manager Todd Clark asked about engineering already completed on the dam.

Public Works and Utilities Director Dusty Wentz said some engineering has already been completed and paid for with funds from the Public Works and Utilities Department's operating budget. The City has a contract with Wooten Engineering. The action request is not to amend the contract with Wooten but rather to appropriate additional funds to complete the required engineering. Wooten will contract the geotechnical engineering with another firm.

Council Member Robert C. Abernethy Jr. asked whether Dam Safety representatives would be at the site to monitor the investigations.

Public Works and Utilities Director Dusty Wentz said Dam Safety would receive the results on paper. Representatives may be present when the investigations are underway, but they do not have to be on site during the investigations.

Upon motion duly made by Council Member Wes Weaver, seconded by Council Member John Stiver, it was unanimously RESOLVED:

That a Budget Ordinance Amendment to appropriate necessary funding for geotechnical services, administrative oversight, and preparation of a Simplified Inundation Map in

order to maintain compliance at the City Lake Dam as required by the N.C. Department of Environment and Natural Resources Dam Safety be – APPROVED

ITEM 8: City Manager's Report

City Manager Todd Clark advised City Council of upcoming events, including:

- » February 6: Ribbon Cutting – Il Bambini Pizza – 11 a.m. at Plaza Latina
- » February 13: 2014 Star Recipient breakfast – Western Steer
- » February 18: Catawba County Chamber of Commerce Annual Shareholders and Investors Luncheon – 11:30 a.m.-1:30 p.m. at Hickory Metro Convention Center
- » February 19: Business Advisory Committee Annual Meeting – 5-7 p.m. at the Old Post Office Playhouse
- » February 27: Council/Staff Workshop – 8 a.m.-5 p.m. at the Newton Expo
- » March 5, 12, 19 and 26: Public Input Sessions/Strategic Plan – 5:30-7 p.m. at City Hall, Gantt Room
- » March 23: Streetscape Input Meeting – 7-9 p.m. at the Old Post Office Playhouse

City Manager Todd Clark presented City Council with designs for a new sign at the Danner Industrial Park. The sign will align with the design of the City's gateway signs. The sign will have a rock base 3-4 feet tall and will not include spaces for the names of each business in the industrial park.

City Manager Todd Clark said planning is underway for 2015 Teen Leadership. The first session will be Feb. 19 and run four consecutive Thursdays. The program will end with presentations at the March 17 City Council meeting.

City Manager Todd Clark said the home on the former Saunders property on West 7th Street has been demolished and the vacant lot is advertised for sale. An advertisement was run in a local paper and a sign is on the property indicating it is for sale. The property will be sold following N.C. General Statute regarding negotiating bids on the property, including an upset bid process.

Assistant City Manager Sean Hovis said wayfinding signs will be ready for installation by the end of February at the earliest.

City Manager Todd Clark said Information Systems Director Jason Clay has worked with the City for five years and recently took a professional challenge when he accepted a job in Charleston, S.C., where he will work and pursue his love of sailing. He thanked Jason Clay for his years of service to the City and said that he would be missed tremendously. Jason Clay oversaw implementation of free Wi-Fi service to Downtown Newton and beyond at a fraction of the initial estimated cost, secured the City's software systems, and created emergency backup systems with Catawba County. The City will miss Jason Clay's creative attitude and the help he provided to staff and residents. Jason Clay's last day with the City will be Feb. 13.

Mayor Anne P. Stedman said Jason Clay would be missed. She said he brought a lot of lasting value to Newton and thanked him for his service.

City Manager Todd Clark welcomed Randy Williams as the City's new Planning Director. Randy Williams has a Bachelor of Science degree in geography and planning from Western Carolina University. He has a Master's Degree in architecture and urban design from the University of North Carolina at Charlotte. He is employed presently with Lincoln County as Principal Planner. Prior to his employment with Lincoln County, he worked as a senior planner at Woolpert LLP and as Planning Director for the City of Conover. Randy Williams will join the City on Feb. 25.

City Manager Todd Clark congratulated Dennis Woodrow Murdock for earning an Associate Degree in general occupational technology from Mitchell Community College in December. Dennis Woodrow Murdock is an excellent mechanic.

Public Works and Utilities Director Dusty Wentz said Mr. Murdock has been employed by the City about 35 years, is always learning new skills, and is a master when it comes to working on electrical engines.

City Manager Todd Clark asked whether City Council had any questions or concerns. There were none.

ITEM 9: Questions and Comments from Mayor and Council

Mayor Anne P. Stedman asked if any City Council would like to make any comments. There were none.

ITEM 10: Closed Session to Consult with the City Attorney – G.S. 143-318-11(a)(6) Personnel

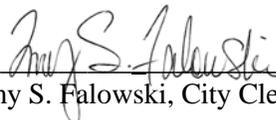
Upon motion duly made by Council Member Wes Weaver, seconded by Council Member Robert C. Abernethy Jr., it was unanimously RESOLVED:

That the City Council enter CLOSED SESSION per G.S. 143-318-11(a)(3).

ITEM 11: Adjournment

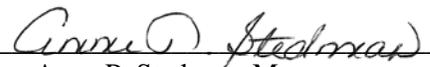
Upon motion duly made by Council Member Wes Weaver, seconded by Mayor Pro Tem Mary Bess Lawing, it was unanimously RESOLVED:

That the Meeting be – ADJOURNED



Amy S. Falowski, City Clerk





Anne P. Stedman, Mayor